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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,801	12/31/2001	Tetsuhiko Awaji	1341.1116	7344

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EXAMINER

WILLETT, STEPHAN F

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/029,801	AWAJI, TETSUHIKO	
	Examiner	Art Unit	
	Stephan F Willett	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/23/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 4, 5, 8-9, 11-12, 14, 19, 22, 25, 28, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. “Suitable ... is not a suitable processing”, “a parameter ... specified as the cause”, “influence characteristics”, “a plurality of the [what] cases”, and “is not a processing ... cause of the generation of this job” are unclear. Thus, it is assumed for examination purposes that an administrator has access to the staging server for proper antecedent basis with a wherein clause.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim(s) 1-14 is/are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d

1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and Warmerdam, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). The claims specify “program” and “computer function”, thus the software must be stored on a “computer-readable medium needed to realize the computer program’s functionality”, MPEP 2105.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U. S.C. 102(e) that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Munson et al. with Patent Number 6,681,331.

1. Regarding claim(s) 1, 15, 29, 33, Munson teaches a monitor that recognizes processor aberrations. Munson teaches a monitor that decides whether a job is processing suitably, col. 3, lines 32-34. Munson teaches a notification unit that notifies a user of unsuitable processing, col. 6, lines 47-49.

2. Regarding claim(s) 2, 16, 30, 34, Munson teaches the monitoring decision is made during execution of the job processing as “real-time”, col. 14, lines 47-49.

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3. Regarding claim(s) 3, 17, 31, Munson teaches comparing the job with a stored processing example that is desirable, col. 4, lines 26-33.
4. Regarding claim(s) 4, 18, Munson teaches a parameter set with a different value is specified as the cause, col. 4, lines 56-60, due to various parameters, col. 5, lines 20-23; col. 5-6, lines 65-13.
5. Regarding claim(s) 5, 19, Munson teaches accumulating influence parameters/characteristics, col. 4, lines 33-48; col. 8, lines 39-47 and col. 9, lines 18-19, that specify the cause, col. 6, lines 26-29.
6. Regarding claim(s) 6, 20, Munson teaches the user specifying a past processing sample col. 4, lines 37-40.
7. Regarding claim(s) 7, 21, Munson teaches a parameter set with a different value is specified as the cause, col. 4, lines 56-60, due to various parameters, col. 5, lines 20-23; col. 5-6, lines 65-13.
8. Regarding claim(s) 8, 22, Munson teaches accumulating influence parameters/characteristics, col. 4, lines 33-48; col. 8, lines 39-47 and col. 9, lines 18-19, that specify the cause, col. 6, lines 26-29.
9. Regarding claim(s) 9, 23, Munson teaches comparing a job with a reference case based on other cases, col. 4, lines 40-43.
10. Regarding claim(s) 10, 24, Munson teaches a parameter set with a different value is specified as the cause, col. 4, lines 56-60, due to various parameters, col. 5, lines 20-23; col. 5-6, lines 65-13.

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11. Regarding claim(s) 11, 25, Munson teaches accumulating influence parameters/characteristics, col. 4, lines 33-48; col. 8, lines 39-47 and col. 9, lines 18-19, that specify the cause, col. 6, lines 26-29.
12. Regarding claim(s) 12, 26, 32, Munson teaches the monitor specifies the cause of the job as “types” and “different levels”, col. 6, lines 29-30, 42-47. Munson teaches a notification unit that notifies a user of unsuitable processing, col. 6, lines 47-49.
13. Regarding claim(s) 13, 27, Munson teaches a parameter set with a different value is specified as the cause, col. 4, lines 56-60, due to various parameters, col. 5, lines 20-23; col. 5-6, lines 65-13.
14. Regarding claim(s) 14, 28, Munson teaches accumulating influence parameters/characteristics, col. 4, lines 33-48; col. 8, lines 39-47 and col. 9, lines 18-19, that specify the cause, col. 6, lines 26-29.

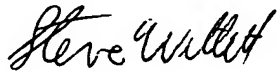
Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited. A close review of the references is suggested. A close review of the Murstein et al. reference with Patent Number 6,789,046 is suggested. The other references cited teach numerous other ways to monitor processors for aberrations, thus a close review of them is suggested.
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (571) 272-3890. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

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5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey, can be reached on (571) 272-3896. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

6. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

A handwritten signature in cursive script, appearing to read "Steve Willett".

Stephan Willett

Patent Examiner

March 31, 2005